

REMARKS

I. Introduction

Claims 1, 3-5, 8, and 17 have been amended. Claims 2 and 19-24 have been cancelled. Claims 6, 7, 9-16, and 18 are also in the case. Reconsideration of this application in light of the following further remarks is hereby respectfully requested.

II. The Prior Art Rejections

All of applicants' claims have been rejected under 35 U.S.C. § 103 as obvious from Kalloo et al. U.S. patent 6,572,629 (hereinafter "Kalloo") in view of Wilk U.S. patent application publication 2002/0091295 (hereinafter "Wilk"). This rejection is respectfully traversed.

A. Claims 1 and 3-7

Claim 1 specifies a method in which two magnetic devices are implanted on the inner surface of a patient's stomach cavity at locations that are selected to be across the stomach cavity from one another but movable toward one another across the stomach cavity to allow the two magnetic devices to contact one another as a result of magnetic attraction between the magnetic devices.

Kalloo does not show a structure that operates on a principle like this, even allowing for the fact that Kalloo does not employ magnets. What Kalloo shows is implanting a row of clips 68 at intervals of about 1-2 cm along a loop of fishing line 80 that extends around the inside of the stomach (see, e.g., Kalloo column 6, lines 7-10 and 18-20). The loop of fishing line is then tightened. The effect of this is obviously to draw clips 68 that are immediately adjacent to one another along the loop closer together (i.e., to shrink

the initial 1-2 cm spacing between immediately adjacent clips). Whether immediately adjacent clips actually contact one another in Kalloo is uncertain, but it seems impossible for two clips that are not immediately adjacent to one another, but rather are across the stomach cavity from one another, to come into contact with one another as specified by applicants in claim 1. The intervening clips would prevent such more distant clips from ever coming into contact with one another. This fundamental difference between Kalloo, on the one hand, and applicants' invention, on the other hand, makes it improper to combine Kalloo and Wilk as asserted in the Office action.

Wilk shows magnets on opposite sides of a wound coming together for wound closure. But Wilk does not suggest anything like applicants' method for using magnets to reduce the effective volume of a patient's stomach cavity.

The foregoing demonstrates that Kalloo and Wilk cannot be combined to produce applicants' invention as defined in claim 1. Claim 1 is therefore not obvious from Kalloo and Wilk, and claim 1 should accordingly be allowed. The same is true for claims 3-7, all of which are dependent from claim 1.

B. Claims 8-16

Independent claim 8 specifies apparatus that includes two magnetic implants at two respective locations that are across the stomach cavity from one another but that are movable toward one another across the stomach cavity to allow the magnetic implants to contact one another as a result of magnetic attraction between the implants.

Once again, Kalloo is not germane to this type of apparatus, even setting aside the fact that Kalloo does not

disclose or suggest the use of magnetic implants. From a purely mechanical or geometric perspective, Kalloo shows a structure that requires a large number of separate implants spaced 1-2 cm apart along a loop around the inside of the patient's stomach. When the loop is tightened, immediately adjacent implants move closer together, but implants that are not immediately adjacent to one another (e.g., because they are across the stomach cavity from one another) do not come into contact with one another. Kalloo simply does not teach a structure in which that can occur because of Kalloo's requirement for so many closely spaced implants. It would therefore not be obvious to substitute what Wilk shows for structural elements of Kalloo to produce applicants' invention as defined in claim 8. Claim 8 and its dependent claims 9-16 are accordingly allowable over Kalloo and Wilk.

C. Claims 17 and 18

Claim 17 specifies instrumentation for trans-orally implanting first and second magnetic devices at respective stomach wall locations that are across the stomach cavity from one another but that are movable toward one another across the stomach cavity to allow the magnetic devices to contact one another as a result of magnetic attraction between those devices. This deflects at least one of the stomach wall locations inwardly and reduces the effective volume of the stomach cavity.

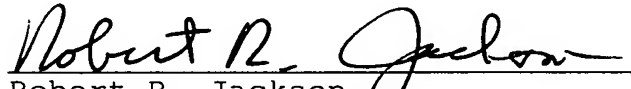
Once again, this is not obvious from Kalloo and Wilk because Kalloo shows a structure that prevents clips 68 that are not immediately adjacent to one another (but rather are far enough apart to be across the stomach cavity from one another) to contact one another. Thus it would not be obvious to use magnetics from Wilk as a substitute for structural elements in Kalloo to produce applicants'

invention as defined in claim 17. Claim 17 and its dependent claim 18 should therefore be allowed.

III. Conclusion

The foregoing demonstrates that claims 1 and 3-18 are allowable. Claims 2 and 19-24 have been cancelled. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert R. Jackson", is written over a horizontal line.

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